

EXHIBIT C

Office of the Mayor
Chokwe Antar Lumumba, Mayor



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EPA Administrator Michael Regan
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
via regan.michael@epa.gov

Dear Administrator Regan:

I write to you on behalf of the City of Jackson and express our gratitude for your ongoing support in addressing the challenges posed by the Jackson Water Crisis. We appreciate your steadfast commitment to environmental justice and recognize that equitable solutions require diligent attention to detail. Therefore, I must bring to your attention several pressing concerns regarding the operations of the Interim Third-Party Manager (ITPM) Ted Henifin and JXN Water, which oversees both the Jackson water and sewer systems.

- 1. Lack of Competitive Procurement:** The Interim Stipulated Order (ISO) directs the ITPM to employ competitive procurement processes to ensure the residents of Jackson receive optimal services at competitive rates. Despite the end of the initial emergency response phase more than a year ago, the ITPM has failed to initiate competitive procurement processes for water system operations and maintenance as required. Most notably, the ITPM remains stalwart in its intention to award a 10-year, \$250 million contract to Jacobs Engineering for the City's drinking water system, without any procurement process. This not only contravenes the ISO but also deprives Jackson of the opportunity to secure the best pricing and incorporate community benefits into procurement documents. We urge the EPA to inform the ITPM of its status as an instrumentality of government with an obligation to conduct competitive procurement processes for operations, maintenance, and management contracts, as well as any significant construction projects, to ensure transparency and equitable distribution of public funds.
- 2. Lack of Progress on Priority Projects:** The ISO outlines specific priority projects to be completed within designated timeframes. However, JXN Water's fourth-quarter progress report indicates significant delays in many of these projects. While JXN Water cites USEPA-approved schedule extensions in its report, the City of Jackson has not received documentation of these approvals. Timely completion of these priority projects is crucial for ensuring the residents of Jackson have access to safe drinking water and clean waterways. Recent incidents, including numerous boil water notices and raw sewage spills into the Pearl River, underscore the urgency of this matter. We request the EPA's continued monitoring of JXN Water's progress on these critical projects and urge for their timely completion.

As the USEPA knows, timely progress on these priority projects means a great deal to the residents of Jackson, who deserve safe drinking water and clean waterways at the earliest possible time. During the past quarter, JXN Water reported:

- 81 boil water notices throughout the City's drinking water system,
- 250 million gallons of raw sewage spilled into the Pearl River, and
- Continued delays to the OB Curtis water treatment plant's corrosion control system, necessitating a corresponding extension of the Mississippi Department of Health's advisory to pregnant women and young children, which the ITPM has publicly questioned and dismissed.

3. **Insufficient Communication and Coordination:** The ISO mandates regular communication and coordination between the ITPM and the City of Jackson. However, meaningful coordination has been lacking since the end of Q2 2023. Effective communication is vital for addressing the challenges faced by Jackson residents and ensuring they receive the highest quality water and wastewater services. We call upon the EPA to direct the ITPM to resume regular communication and coordination as stipulated in the ISO.
4. **Uncertainty in Financial Planning:** Along with the Q4 2023 reports associated with the water and sewer system orders, the ITPM also released a revised Financial Management Plan (FMP) in early February 2024. This revised plan presents two scenarios, one with a 41% rate increase and one, preferred by the ITPM, that relies on the U.S. Congress to modify the appropriation of \$600 million in the Consolidation Appropriations Act of 2023 (H.R. 2617) to allow its use for both water and sewer debt retirement. The City does not support this text amendment to retire the debt for several reasons, which are: (a) the uncertainty surrounding Congress' willingness to modify the existing appropriation language; (b) the lack of progress on this change in the past year; and (c) the ITPM's failure to actively pursue additional federal funding sources likely creating an inevitable 41% rate increase. An increase of this scale would cripple residents and subvert efforts to regrow our tax base.
5. **Improper Public Support for Mississippi Legislation as an Officer of the Court:** On November 29, 2022, and July 31, 2023, Ted Henifin was appointed as the ITPM for Jackson's public water and sewer systems, respectively. Per court orders, the ITPM and his agents are officers and agents of the court. As an "arm of the court," the ITPM has a fiduciary duty to properly manage, exercise reasonable care, and act in good faith over the city's public assets. However, the ITPM has breached this wall of neutrality and impartiality by publicly endorsing MS Legislature Senate Bill 2628, thus jeopardizing judicial propriety, perception of impartiality, meddling in politics, opening potential conflicts of interest, and interfering with ongoing litigation. On February 23, 2024, the ITPM, via a JXN Water press release, supported SB 2628—which would allow the creation of a regional authority to acquire water and sewer assets from the city—as well as offered potential amendments for the legislation. Above all, the ITPM appointment as receiver of Jackson's public water and sewer systems is for remedial purposes—not to punitively punish the city and its residents—with the ultimate goal of complying with federal environmental and drinking water laws for the health and safety of the environment and public health.

In closing, while we appreciate the EPA's assistance, the current oversight of Jackson's water and sewer systems falls short of the collaborative approach envisioned in our initial partnership. Unilateral decision-

making, lack of communication, acts that breach neutrality of a court-appointed officer, and non-competitive awarding of contracts undermine the principles of transparency and equity. We urge the EPA to collaborate with the judiciary and the Department of Justice to address these concerns and ensure the residents of Jackson receive the assistance they deserve. Moreover, this oversight must serve as a model of justice and equity for other communities facing similar challenges.

I welcome the opportunity to discuss these concerns further with you and your team. Thank you for your attention to this matter.

Sincerely,

Chokwe Antar Lumumba